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**IN THE
COURT OF APPEALS OF INDIANA**

KELLEY SAYLOR,)	
)	
Appellant-Petitioner,)	
)	
vs.)	No. 49A02-0609-CV-835
)	
STATE EMPLOYEES' APPEALS)	
COMMISSION and BUREAU OF MOTOR)	
VEHICLES,)	
)	
Appellees-Respondents.)	

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable S.K. Reid, Judge
Cause No. 49D13-0510-PL-42288

May 11, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

BAKER, Chief Judge

Appellant-petitioner Kelley Saylor appeals from the trial court's denial of her petition seeking judicial review of a decision made by appellee-respondent State Employees' Appeals Commission (SEAC). Specifically, Saylor argues that the trial court erroneously affirmed the SEAC's determination that it did not have jurisdiction over her complaint against appellee-defendant Bureau of Motor Vehicles (BMV). Finding that the SEAC did not have jurisdiction over Saylor's complaint, inasmuch as Saylor was an employee of the Bureau of Motor Vehicles Commission (the Commission) rather than the BMV, we affirm the judgment of the trial court.

FACTS

The General Assembly established the Commission to oversee Indiana's license branches. Ind. Code § 9-15-2-1; § 9-16-1-2. The Commission was authorized to create a personnel system that is separate from that of the BMV—and the rest of the state—for the Commission's employees who are managers and employees of the license branches. I.C. § 9-16-4-1. Ultimately, the Commission elected to develop its own personnel system, choosing not to participate in the state personnel system. Thus, the Commission establishes the rights, privileges, powers, and duties of its employees. Id.

Saylor was hired to work at the Williamsport License Branch on September 23, 2002. She was fired on February 17, 2005, for allegedly falsifying her employment application. Saylor appealed her dismissal by letter on February 23, 2005, requesting an Investigative Meeting as provided for by the Commission's Employee Policy and Reference Guide. In response to Saylor's appeal, the Executive Director of the Commission's Human Resources

Department informed her on March 4, 2005, that the termination of her employment was consistent with the practices of the BMV and the Commission.

On March 8, 2005, Saylor appealed the Executive Director's finding by filing a complaint against the BMV with the SEAC. The BMV moved to dismiss the complaint, arguing that Saylor was an employee of the Commission rather than the BMV and that because the Commission is a body corporate and politic, separate from the State, the SEAC does not have jurisdiction over the Commission's employees.

An administrative law judge (ALJ) for the SEAC conducted a hearing on June 18, 2005, and on July 25, 2005, the ALJ issued a non-final order dismissing Saylor's complaint based on a determination that the SEAC did not have jurisdiction over the Commission's employees. The ALJ's findings of fact and conclusions of law read, in pertinent part, as follows:

1. [Saylor] was an employee of [the Commission], a body corporate and politic created by the legislature under Indiana Code (IC) 9-15-1.

3. [Saylor] was never an employee of the [BMV], a non-merit State agency.

6. The [Commission] has, pursuant to IC 9-16-4-1, established a "personnel system for managers and employees of license branches" The [Commission] uses this separate personnel system to hire, employ, promote, and dismiss its employees.
7. The State Personnel Department lists the BMV as a non-merit agency but does not consider the [Commission] to be either a merit or non-merit agency of the State. Instead, the State Personnel

Department recognizes that the legislature intended to create the BMVC as “a body corporate and politic”

8. The SEAC has jurisdiction under IC 4-15-1.5-6 . . . “to hear or investigate appeals from state employees as is set forth in IC 4-15-2 (“State Merit Employment”), and fairly and impartially render decisions as to the validity of the appeals or lack thereof . . . [.]” . . . [Saylor] has never claimed to be a merit employee, with standing under IC 4-15-2-25, and neither the BMV nor the [Commission] is included in the state merit service by Ind. Code § 4-15-2-3.8.
9. The SEAC also has jurisdiction granted to it under Executive Order 05-14 to hear complaints from “An employee of the non-merit service, as defined in 31 IAC 1-1-1 . . .” who meets certain additional criteria. . . .
10. . . . [Saylor] is not a non-merit employee with standing before SEAC pursuant to Executive Order 05-14.
11. The SEAC has not been granted jurisdiction by the Indiana Legislature by statute or the Governor by executive order over bodies corporate and politic or other quasi-governmental entities or instrumentalities of the State.

15. . . . [T]he Indiana Supreme Court ruled that an administrative agency’s jurisdiction and authority is strictly limited by its statutes, no matter how persuasive the argument or what doctrines may appear in the common law. According to the Supreme Court, because an administrative body “derives its authority from the statutes, it can do the things authorized by the Legislature and beyond that it cannot legally go. Its authority is not expanded by the ‘common law’.” (Emphasis added) Smith v. Thompson Construction Company (224 Ind. 565 at 568, 69 N.E.2d 16 (1946)).
16. The SEAC has only the jurisdiction granted to it by the legislature in statute or by the Governor in Executive Order and no more. Because it had not been granted the authority to hear complaints and appeals from employees of bodies corporate and politic, the SEAC has no jurisdiction or power to consider [Saylor’s] complaint against the [Commission].

Appellant's App. p. 18-20 (emphasis in original). The SEAC affirmed the ALJ's non-final order without modification on September 28, 2005. On October 27, 2005, Saylor filed a petition for judicial review of the SEAC's decision, and on August 31, 2006, the trial court affirmed. Saylor now appeals.

DISCUSSION AND DECISION

In considering Saylor's challenge to a final agency determination,

we conduct our review solely to determine whether the agency's decision was supported by substantial evidence, whether the decision was arbitrary or capricious, or whether the decision was in violation of any constitutional, statutory, or legal principle. The party seeking relief from an agency decision bears the burden of proof to disclose an error warranting reversal. This court is prohibited from reweighing the evidence and must accept the facts as determined by the administrative body. Additionally, we pay due deference to the interpretation of a statute by the administrative agency charged with its enforcement in light of its expertise in its given area.

State Employees' Appeals Comm'n v. Barclay, 695 N.E.2d 957, 959-60 (Ind. Ct. App. 1998)

(citations omitted).

It is apparent and, indeed, undisputed that the SEAC does not have jurisdiction over employees of the Commission. Briefly, we observe that the SEAC has jurisdiction over merit employees pursuant to statute, see I.C. § 4-15-1.5-6, and over non-merit employees pursuant to Executive Order 05-14. Employees of the Commission are not merit employees because the Commission developed its own personnel system that is separate from the state's personnel system. Moreover, the governor's counsel testified that Executive Order 05-14 was not intended to apply to employees of separate bodies corporate and politic. Appellees' App. p. 19. Inasmuch as the Commission is a body corporate and politic, it is not a non-merit

agency pursuant to the Executive Order. Thus, we conclude that the trial court properly affirmed the SEAC's determination that it does not have jurisdiction over employees of the Commission.

Saylor's sole argument on appeal is that she was a joint employee of the BMV and the Commission; consequently, the SEAC had jurisdiction over her complaint because she was employed by the BMV, a non-merit service within the meaning of Executive Order 05-14. Essentially, Saylor asks us to reweigh the evidence and second-guess the SEAC's factual conclusion regarding her employment status—an exercise prohibited by our standard of review. And as a matter of law, we cannot say that the SEAC erred in interpreting the relevant statutes or the relationship between the BMV and the Commission:

[Saylor] asks that the right to appeal to the SEAC be granted to employees of the [Commission] due to a theory of "joint employer." This theory would be based upon the integration of functions, responsibilities and authority between the two agencies While this integration does exist[,] the [Commission] uses its own personnel system to hire, employ, promote and dismiss its employees. If the [Commission] had not developed its own personnel system its employees would have been subject to the state personnel system pursuant to IC 4-15-1.8. . . .

. . . Pursuant to IC 9-16-4-1 the [Commission] employees would have been under the jurisdiction of the state personnel department if the [Commission] had not developed its own personnel system. The [Commission] did develop its own personnel system and therefore its employees are not classified as employees of the non-merit service. The integration of functions between the BMV and [the Commission] does not support a joint employer argument as long as the [Commission] personnel system is being applied to matters pertaining to [the Commission's] employees. There was no evidence presented to show that the system was not being applied as written.

Appellant's App. p. 18. We also agree with the appellees that if all employees of the Commission are automatically considered to be BMV employees as well, then the statute giving the Commission the choice to opt out of the state personnel system would be meaningless. Thus, we find that the trial court properly affirmed the SEAC's determination that it did not have jurisdiction over Saylor's complaint.

The judgment of the trial court is affirmed.

FRIEDLANDER, J., and CRONE, J., concur.